

Constitutional Rights and Public Interest Groups Oppose Calls for an Article V Constitutional Convention

Calling a new constitutional convention under Article V of the U.S. Constitution is a threat to every American's constitutional rights and civil liberties.

Article V convention proponents and wealthy special interest groups are dangerously close to forcing the calling of a constitutional convention to enact a federal balanced budget amendment (BBA). This would be the first constitutional convention since the original convention in 1787 — all constitutional amendments since then have been passed first by Congress and then approved by three-fourths of the state legislatures. There are no rules and guidelines in the U.S. Constitution on how a convention would work, which creates an opportunity for a runaway convention that could rewrite any constitutional right or protection currently available to American citizens.

Under Article V of the U.S. Constitution, a convention can be called when two-thirds of the states (34) petition for a convention to enact amendments to the constitution. States can also rescind their calls by voting to rescind in the state legislature. Just a few states short of reaching the constitutionally-required 34 states to call a convention, Article V and BBA advocates have recently increased their efforts to call a new convention.

An Article V convention is a dangerous threat to the U.S. Constitution, our democracy, and our civil rights and liberties. There is no language in the U.S. Constitution to limit a convention to one issue and there is reason to fear that a convention once called will be able to consider any amendments to the constitution that the delegates want to consider. There are also no guidelines or rules to govern a convention. Due to the lack of provisions in the Constitution and lack of historical precedent, it is unknown how delegates to a convention would be picked, what rules would be in place, what would happen in the case of legal disputes, what issues would be raised, how the American people would be represented, and how to limit the influence of special interests in a convention.

Because there is no way to limit a convention's focus, any constitutional issue could be brought up for revision by a convention. This includes civil rights and civil liberties, including freedom of speech, freedom of religion, privacy rights, the guarantee of equal protection under law, the right to vote, immigration issues, and the right to counsel and a jury trial, among others. Basic separation of executive, legislative, and judicial powers would be subject to revision as well. A convention might not preserve the role of the courts in protecting our constitutional rights. Even the supremacy of federal law and the Constitution over state laws could be called into doubt.

A 2016 *USA Today* editorialⁱ correctly stated that calling for a constitutional convention is “an invitation to constitutional mayhem” and “could further poison our politics and hobble American leaders at moments of crisis.” Notable legal scholars across the political spectrum agree. One of the nation's most esteemed constitutional law scholars, Professor Laurence Tribe of Harvard Law School, has said a constitutional convention would put “the whole Constitution up for grabs.”ⁱⁱ

Georgetown University Law professor David Super wrote “a constitutional convention would circumvent one of the proudest democratic advances of the last century in America: one-person, one-

vote. Without a precedent, no one really knows how a convention would unfold, but proponents predict that each state would have an equal vote in whatever they got up to.”ⁱⁱⁱ

Former Supreme Court Chief Justice Warren Burger shared similar concerns, writing, “[T]here is no way to effectively limit or muzzle the actions of a constitutional convention. The convention could make its own rules and set its own agenda. Congress might try to limit the convention to one amendment or one issue, but there is no way to assure that the convention would obey.”^{iv}

The late Supreme Court Justice Antonin Scalia also warned of the dangers of a constitutional convention. “I certainly would not want a constitutional convention. Whoa! Who knows what would come out of it?,” Scalia said in 2014.^v

The undersigned organizations strongly urge state legislatures to oppose efforts to pass a resolution to call for a constitutional convention. We also strongly urge state legislatures to rescind any application for an Article V constitutional convention in order to protect all Americans’ constitutional rights and privileges from being put at risk and up for grabs.

National organizations:

African American Health Alliance	Earthjustice
African American Ministers In Action	Eclectablog
AFSCME Retirees	Economic Policy Institute
Alliance for Justice	EMILY’s List
American Federation of Labor and Congress of Industrial Organizations (AFL–CIO)	Every Voice
American Federation of State, County and Municipal Employees (AFSCME)	Fair Elections Legal Network
American-Arab Anti-Discrimination Committee	Faith in Public Life
Americans for Democratic Action (ADA)	Family Values at Work
Asian and Pacific Islander American Vote	Food Research & Action Center (FRAC)
Bend the Arc Jewish Action	Franciscan Action Network
Brennan Center for Justice	Greenpeace USA
Campaign Legal Center	International Association of Fire Fighters
Center for American Progress	Jobs With Justice
Center for Community Change	League of Women Voters of the United States
Center for Law and Social Policy (CLASP)	Main Street Alliance
Center for Media and Democracy	Mi Familia Vota
Center for Medicare Advocacy	NAACP
Center for Popular Democracy	National Asian Pacific American Families Against Substance Abuse
Center on Budget and Policy Priorities	National Association of Social Workers
Children’s Defense Fund	National Council of Asian Pacific Americans (NCAPA)
Citizens for Responsibility and Ethics in Washington (CREW)	National Council of Jewish Women
Coalition on Human Needs	National Council of La Raza Action Fund
Common Cause	National Disability Institute
Communications Workers of America (CWA)	National Disability Rights Network
Community Advocates Public Policy Institute	National Education Association (NEA)
Daily Kos	National Employment Law Project (NELP)
Democracy 21	National Fair Housing Alliance
Dream Defenders	National Korean American Service & Education Consortium (NAKASEC)

National Partnership for Women & Families
National WIC Association
National Women's Law Center
People Demanding Action
People For the American Way
ProgressNow
Service Employees International Union (SEIU)
Sierra Club
Sisters of Charity of Nazareth Congregational
Leadership
Social Security Works

State and local organizations:

Alabama

Fair Housing Center of Northern Alabama

Alaska

Alaska AFL-CIO

Arkansas

OMNI Center for Peace, Justice & Ecology

Arizona

AFSCME 2960
AFSCME Retirees Chapter 97
Arizona Advocacy Network
Phoenix Day
Southwest Fair Housing Council

California

California Common Cause
City of Chino Housing Division
Courage Campaign
Fair Housing Advocates of Northern California

Colorado

ACLU of Colorado
America Votes Colorado
Colorado AFL-CIO
Colorado Common Cause
Colorado Ethics Watch
Colorado Fiscal Institute
Colorado Sierra Club
Colorado WINS
New Era Colorado
League of Women Voters of Colorado
Progress Colorado
SEIU Colorado

Connecticut

Common Cause Connecticut

State Innovation Exchange
The Arc of the United States
The Forum for Youth Investment
The Public Interest
The Voting Rights Institute
UNITE HERE
United Food and Commercial Workers (UFCW)
Voice for Adoption
VoteVets Action Fund
Women's Voices Women Vote Action Fund
Working America

Connecticut Fair Housing Center, Inc.
Planned Parenthood of Southern New England
Holy Family Home and Shelter, Inc

Delaware

Common Cause Delaware

Florida

Common Cause Florida
Faith in Florida
Florida Consumer Action Network
Progress Florida

Georgia

Common Cause Georgia

Hawaii

Common Cause Hawaii

Idaho

Better Idaho
Idaho AFL-CIO

Illinois

Common Cause Illinois
Oak Park River Forest Food Pantry
Project IRENE

Indiana

Common Cause Indiana
Fair Housing Center of Central Indiana

Iowa

AFSCME Iowa Council 61
Congregation of the Humility of Mary
Iowa AFL-CIO

Kansas

Kansas AFL-CIO

Kentucky

Common Cause Kentucky
Kentucky AFL-CIO

Louisiana

Greater New Orleans Fair Housing Action Center

Maine

Disability Rights Maine
Maine AFL-CIO

Maryland

ACE-AFSCME Local 2250
AFSCME Council 3
AFSCME Council 67
Baltimore Neighborhoods, Inc.
Benedictine Sisters of Baltimore
Common Cause Maryland
Disability Rights Maryland
Maryland Center on Economic Policy
Public Justice Center
The Xaverian Brothers

Massachusetts

Massachusetts AFL-CIO

Michigan

Common Cause Michigan
Fair Housing Center of West Michigan
Progress Michigan

Minnesota

Common Cause Minnesota
League of Women Voters of Minnesota
Minnesota AFL-CIO
Minnesota Citizens for Clean Elections

Mississippi

Mississippi AFL-CIO

Missouri

Vision for Children at Risk

Montana

Montana AFL-CIO

Nebraska

Common Cause Nebraska

Nebraskans for Civic Reform

New Hampshire

New Hampshire AFL-CIO

New Jersey

CWA Local 1081
New Jersey Association of Mental Health and
Addiction Agencies, Inc.
Monarch Housing Associates

New Mexico

Common Cause New Mexico
League of Women Voters of New Mexico
New Mexico Hospital Workers Union (1199NM)

New York

CNY Fair Housing, Inc
Common Cause New York
Disabled in Action of Greater Syracuse Inc.
Long Island Housing Services, Inc.
Schenectady Inner City Ministry
Solidarity Committee of the Capital District

Nevada

AFSCME 4041
Culinary Union

North Carolina

Common Cause North Carolina
Disability Rights North Carolina
Independent Living Resources (Durham, NC)

North Dakota

North Dakota AFL-CIO

Ohio

Cleveland Nonviolence Network
Common Cause Ohio
Equality Ohio
Ohio Voice
ProgressOhio
Toledo Fair Housing Center
Toledo Area Jobs with Justice

Oklahoma

Oklahoma AFL-CIO

Oregon

Common Cause Oregon
Disability Rights Oregon

Pennsylvania

Bhutanese Community Association of Pittsburgh
Common Cause Pennsylvania
Community at Holy Family Manor (Pittsburgh, PA)
Just Harvest (Pittsburgh, PA)

Rhode Island

Common Cause Rhode Island

South Carolina

South Carolina AFL-CIO

South Dakota

South Dakota AFL-CIO

Tennessee

Nashville CARES

Texas

Clean Elections Texas
Common Cause Texas
Harlingen Community Development Corporation

Utah

Tabitha's Way

Vermont

Downstreet Housing & Community Development
P.S., A Partnership

Virginia

Virginia AFL-CIO
Virginia Civic Engagement Table

Washington

Conscious Talk Radio
Washington AFL-CIO
Washington Community Action Network
Fuse Washington

Wisconsin

Access to Independence, Inc. (Madison, WI)
AFSCME Council 32
AFSCME Retirees Chapter 32
Citizen Action of Wisconsin
Common Cause Wisconsin
End Domestic Abuse Wisconsin
Grandparents United for Madison Public Schools
Independence First
League of Women Voters of Wisconsin
Madison-area Urban Ministry
Metropolitan Milwaukee Fair Housing Council
Midstate Independent Living Consultants
One Wisconsin Now
Options for Independent Living Inc.(Green Bay, WI)
School Sisters of Saint Francis (Milwaukee, WI)
Survival Coalition of Disability Organization of
Wisconsin
The Arc Wisconsin
The Wisconsin Democracy Campaign
Wisconsin AFL-CIO
Wisconsin Aging Advocacy Network
Wisconsin Coalition of Independent Living Centers,
Wisconsin Community Action Program Association
(WISCAP)
Wisconsin Council on Children and Families
Wisconsin Democracy Campaign
Wisconsin Faith Voices for Justice
Wisconsin Voices
National Association of Social Workers, Wisconsin
Chapter
Dominicans of Sinsinawa - Leadership Council

West Virginia

West Virginia Citizen Action Group

Wyoming

Wyoming AFL-CIO

ⁱ USA Today, "Marco Rubio's very bad idea: Our view," January 6, 2016, available at <http://www.usatoday.com/story/opinion/2016/01/06/marco-rubio-constitutional-convention-balanced-budget-editorials-debates/78328702/>

ⁱⁱ Michael Leachman & David A. Super, "States Likely Could Not Control Constitutional Convention on Balanced Budget Amendment and Other Issues," Center for Budget and Policy Priorities, July 6, 2014, available at <http://www.cbpp.org/sites/default/files/atoms/files/7-16-14sfp.pdf>.

ⁱⁱⁱ David Super in *The Chicago Tribune*, "Don't even think about 'updating' the Constitution," March 19, 2017, available at <http://www.chicagotribune.com/news/opinion/commentary/ct-constitutional-convention-amendments-20170319-story.html>

^{iv} Letter from Chief Justice Warren Burger to Phyllis Schlafly, June 22, 1988, available at <http://constitution.i2i.org/files/2013/11/Burger-letter2.pdf>.

^v Marcia Coyle, "Scalia, Ginsburg Offer Amendments to the Constitution," *Legal Times*, April 17, 2014, available at <http://www.nationallawjournal.com/legaltimes/id=1202651605161/Scalia,-Ginsburg-Offer-Amendments-to-the-Constitution?slreturn=20140421101513>.